

REMARKS

Claims 1 and 6-19 are pending in this application.

Applicant has amended claims 1, 6-10, and 14-16, has canceled claims 2-5, and has added new claims 17-19. These changes do not introduce any new matter.

Applicant appreciates the Examiner's prompt indication that claim 10 defines allowable subject matter. Applicant's responses to the issues raised in the Office Action are set forth below.

Rejection under 35 U.S.C. § 102(e)

Applicant respectfully requests reconsideration of the rejection of claims 1 and 11-16 under 35 U.S.C. § 102(e) as being anticipated by *Toyoda et al.* (U.S. Patent Publication No. 2002/0167592 A1). Applicant has amended each of independent claims 1 and 14-16 to include the features specified in original claims 2-5 (in light of the changes made to claim 1, Applicant has herein canceled claims 2-5). As recognized by the Examiner in excluding claims 2-5 from the anticipation rejection, the features specified in original claims 2-5 are not disclosed in the *Toyoda et al.* reference. As such, claims 1 and 14-16 now define subject matter that is not disclosed in the *Toyoda et al.* reference.

Accordingly, for at least the foregoing reasons, claims 1 and 14-16 are patentable under 35 U.S.C. § 102(e) over *Toyoda et al.* Claims 11-13, each of which depends from claim 1, are likewise patentable under 35 U.S.C. § 102(e) over *Toyoda et al.* for at least the reason that they depend from claim 1.

Rejection under 35 U.S.C. § 103(a)

Applicant respectfully requests reconsideration of the rejection of claims 2-9 under 35 U.S.C. § 103(a) as being unpatentable over *Toyoda et al.* in view of *Hoshuyama* (U.S. Patent No. US 7,184,079 B2) (as noted above, Applicant has herein canceled claims 2-5). As will be

explained in more detail below, the combination of *Toyoda et al.* in view of *Hoshuyama* would not have suggested to one having ordinary skill in the art the claimed subject matter.

As noted above, Applicant has amended each of independent claims 1 and 14-16 to include the features specified in original claims 2-5. To the extent that the obviousness rejection based on the combination of *Toyoda et al.* and *Hoshuyama* may be considered to apply to independent claims 1 and 14-16, Applicant responds as follows.

In support of the obviousness rejection, the Examiner asserts that the *Hoshuyama* reference cures the deficiencies of the *Toyoda et al.* reference relative to the claimed subject matter. Applicant respectfully traverses the Examiner's characterization of the *Hoshuyama* reference relative to the claimed subject matter.

Column 11, lines 3-9, of the *Hoshuyama* reference relates to "the white balance adjustment signal calculating method achieved by averaging the color signals over the entire image plane," but does not relate to using pixel values of a substantially achromatic area of the image data as in the claimed subject matter.

In column 10, lines 33-47, the *Hoshuyama* reference states "[i]n the white balance adjustment signal achieved through multiple division white detection...adjustment signals can be calculated by detecting white color...even when a great deal of red color is present in the background, for instance. Accordingly, since the predominance of red color in the subject does not present a problem..., 0 or a positive/negative value with a small absolute value is set as the second weighting points in correspondence to the white balance adjustment signal calculating method achieved through multiple division white detection." Further, in Figures 7C, 7D, and 8 of *Hoshuyama*, with regard to the white balance adjustment signal calculating method achieved through multiple division white detection, a smaller value is set for the weighting point when the brightness level is low compared to the value set when the brightness value is high.

Therefore, the *Hoshuyama* reference teaches away from adjusting the intensity of the color balance adjustment processing to a higher level as the subject brightness decreases, over at least a portion of the subject brightness level range in which the subject brightness level is low, when the magnitude of the color shift is determined using pixel values of a substantially achromatic area of the image data.

In view of the foregoing, even if the *Toyoda et al.* and *Hoshuyama* references were to be combined in the manner proposed by the Examiner (a proposition with which Applicant does not agree), the result of the combination would not have been the subject matter defined in independent claims 1 and 14-16, as amended herein.

Accordingly, for at least the foregoing reasons, claims 1 and 14-16, as amended herein, are patentable under 35 U.S.C. § 103(a) over the combination of *Toyoda et al.* in view of *Hoshuyama*. Claims 6-9, each of which has been amended herein so as to depend from claim 1, are likewise patentable under 35 U.S.C. § 103(a) over the combination of *Toyoda et al.* in view of *Hoshuyama* for at least the reason that they depend from claim 1.

New Claims

As noted above, Applicant has added new claims 17-19, each of which is an independent claim. Claim 17 includes the features of original claims 10 and 14. Claim 18 includes the features of original claims 10 and 15. Claim 19 includes the features of original claims 10 and 16. In light of the Examiner's indication that original claim 10 defines allowable subject matter, Applicant submits that each of claims 17-19 defines allowable subject matter.

Conclusion

In view of the foregoing, Applicant respectfully requests reconsideration and reexamination of claims 1 and 6-16, as amended herein, and examination of new claims 17-19, and submits that these claims are in condition for allowance. Accordingly, a notice of

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allowance is respectfully requested. In the event a telephone conversation would expedite the prosecution of this application, the Examiner may reach the undersigned at **(408) 749-6902**.

If any additional fees are due in connection with the filing of this paper, then the Commissioner is authorized to charge such fees to Deposit Account No. 50-0805 (Order No. MIPFP064).

Respectfully submitted,
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